

Meeting Date: 5-9-06

Santa Clara



AGENDA REPORT

City of Santa Clara, California

Agenda Item # 4F



DATE: May 3, 2006

TO: Mayor and Council for Action

FROM: City Manager

SUBJECT: Special Order of Business – Binding Interest Arbitration Ballot Measure Proposal Submitted by Police Officers' Association and Firefighters' Union

EXECUTIVE SUMMARY:

At the March 21, 2006 City Council meeting, the City of Santa Clara received a request from Police Officers' Association (POA) and Firefighters' Union to place a ballot measure on binding interest arbitration on the November 2006 ballot. Council study sessions were held on April 11 and April 25, 2006 to discuss the proposals. The Council meeting of April 11, 2006 was shown on Cable Channel 15 two times per day from April 13 through April 25, 2006. Two community forums were held. On May 2, 2006 a forum was held at the Santa Clara Convention Center with presentations by the POA, Firefighters' Union representatives and City representatives. A second forum was held on May 3, 2006 at the Central Park Library. Both forums were moderated by the League of Women Voters. A separate memorandum from the Deputy City Manager describes the forums.

Concurrently, the POA and Firefighters' Union are conducting an initiative petition drive, seeking signatures of registered Santa Clara voters to qualify the binding interest arbitration ballot measure to be placed on the ballot for the November 2006 election. At the April 25, 2006 Council Meeting it was requested that a flow chart outlining the City's current impasse process and the proposed binding interest arbitration process be prepared. It is attached to this report.

The Council meeting of May 9, 2006 has been set by the City Council as the date for considering the issue of placing the item on the ballot.

During the City Council study sessions and at the community forums, the Fire Chief, Chief of Police and City Manager have strongly recommended against placing binding interest arbitration on the ballot. Local control and local decision-making authority are key concerns. Giving City Council final decision-making authority to an outside arbitrator jeopardizes the financial future of the City and will significantly impact the way the Chief of Police and Fire Chief operate their departments, now and in the future.

In the April 11, 2006 Agenda Report several options were listed for Council's consideration, including staff's recommendation to Note & File the POA's and the Firefighters' Union's request. This Agenda Report outlines five options, with a listing of advantages and disadvantages.

Staff's recommendation continues to be Note & File because the proposed measure represents a major change, and impacts numerous sections of the City Charter, a document that governs how the City is operated. Prior to placing a City Charter amendment on the ballot, especially an amendment with such far-reaching impacts, serious in-depth study by a Blue Ribbon Citizens Committee is a fundamental prerequisite.

A Charter Review Committee would study what is best for the overall good of the community, including what the affect would be on other City employees, how it would impact services, how it would alter the checks and balance system in the City Charter, how it would impact working relationships, among others.

Over the last few weeks, the joint management presentations and recommendations from the Chief of Police, Fire Chief and City Manager are based on three major areas of concern:

- 1) Loss of local control including
- 2) Loss of financial and budget authority of Council and City management, and
- 3) Loss of ability for the Chief of Police and Fire Chief to operate their departments under the City Charter-granted authority, including Civil Service Commission responsibilities.

These three areas of concern are addressed in Option #5: Council to place a ballot measure providing for binding interest arbitration for police and fire, limited only to wages and benefits that are tied to salary (and move as a function of salary - defined in the Memorandum of Understanding). Any arbitrator's award above the City's last, best and final offer must be approved by five votes of the City Council.

If the Council decided to place a ballot measure on the November 2006 ballot, it would give the opportunity for the voters to decide, providing an option to voters that retains some level of local control, and/or allowing voters to decide on the arbitration award itself. This would bring another layer of fairness into the process, involving the overall electorate.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

See "Discussion" section that discusses the advantages and disadvantages of five options in regards to the POA and Firefighters' Union request for a binding interest arbitration ballot measure.

ECONOMIC/FISCAL IMPACT:

Per the City Clerk in consultation with the Registrar of Voters, if Council placed a ballot measure for November 2006, the cost would be approximately \$57,000. (The unions have offered to pay this cost. Staff continues to have concerns regarding precedent setting and a change from past practice by allowing the Unions to pay for the election.) A successful initiative process would cost the City approximately \$65,000 to \$95,000. Source of funding would be the City's General Fund. The full economic/fiscal impact if binding interest arbitration becomes a part of the City Charter cannot be quantified at this time, although it has the potential to be quite significant, in terms of the costs associated with the arbitration process itself (arbitration costs alone could range from \$100,000 to \$300,000 or more based on other cities experiences), as well as the greater concern, namely, the cost impacts from the arbitrators decision and its impact on the General Fund Budget. In addition, there would be on-going costs once the arbitrators award is implemented.

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RECOMMENDATION:

Consistent with the City's past practice relating to ballot measures, it is recommended that Council Note & File the request of the POA and Firefighters' Union to place a ballot measure regarding binding interest arbitration on the November 2006 ballot;

or

Only if Council is not supportive of the Note & File recommendation, Council should consider Option #5 in the Agenda Report: Council to place a ballot measure providing for binding interest arbitration for police and fire, limited only to wages and benefits that are tied to salary (and move as a function of salary - defined in the Memorandum of Understanding). Any arbitrator's award above the City's last, best and final offer must be approved by five votes of the City Council.


Jennifer Sparacino
City Manager

Documents Related to this Report: Flow Chart of Current Impasse Process and Binding Interest Arbitration

DISCUSSION:

There are numerous options available to address the binding interest arbitration proposal. Advantages and disadvantages exist for each option. If Council is interested in pursuing the options, more detailed analysis would be needed. Five basic options for the Council are listed below with advantages and disadvantages:

1. The Council could "Note & File" request to place binding interest arbitration on the November 2006 ballot. (Staff recommends this option.)
 - a. Advantages
 - i. Consistent with previous Council action in June 2004
 - ii. Supports the initiative process
 - iii. Does not create a special interest group past practice/new precedent
 - iv. No Council-directed change to the City Charter without citizen review
 - b. Disadvantages
 - i. Exposes City to entire cost of election if petition successful
 - ii. Not what the public safety labor unions want
2. The Council could approve the request to place binding interest arbitration on the November 2006 ballot.
 - a. Advantages
 - i. Assures that the issue will be on the ballot
 - ii. Consistent with the desire of the labor unions
 - iii. Union has offered to pay the cost of the ballot
 - b. Disadvantages
 - i. Subverts the initiative process
 - ii. May appear as if the Council supports the concept of binding interest arbitration
 - iii. Creates an expectation for other special interest groups that the Council will place their initiatives on the ballot without the signature gathering process
 - iv. Not a level-playing field for the City because the City cannot use City resources to take a position on the measure once it is on the ballot
 - v. Will result in a loss of local control if it passes
3. The Council could refer to City Manager to create a process to refer binding interest arbitration to a City Charter Review Committee, describe the process for organizing a Charter Review Committee, and prepare a community outreach information program; at the same time, Council could request the POA and Firefighters' Union to withdraw both their request to Council and Petition Drive on binding interest arbitration, in order to allow the Charter Review Committee to study the issue.

- a. Advantages
 - i. Consistent with past practices
 - ii. Allows for citizen input in a more organized manner vs. the short timeframe it had to be put together for the May 9 meeting
 - iii. Opens the door for compromise and new ideas
 - iv. Confirms confidence in deliberative and collaborative process that has been successful in previous issues
 - v. Brings all stakeholders into the discussion
 - b. Disadvantages
 - i. Not enough time prior to November 2006 election if the POA and Firefighters' Union feel it has to be done by that time
 - ii. Public safety labor groups may not support idea
 - iii. Charter Review Committee could be subject to political pressure
4. Refer to the City Manager for report on current City negotiation steps and to define alternatives to binding interest arbitration that are not currently in the City's negotiation process. Examples would include mandatory mediation, advisory arbitration, interest based bargaining, among others. None of the options would take away the City Council's final decision-making authority, but would focus on adding new ways to reach successful conclusions to negotiations.
- a. Advantages
 - i. Consistent with past practice of working collaboratively to improve process
 - ii. Some steps already identified
 - iii. May discover a process superior to current methods and/or binding interest arbitration
 - b. Disadvantages
 - i. Recommendations will not be in time for November 2006 election cycle for any City Charter change
 - ii. Does not satisfy public safety labor unions goal to place measure on November 2006 ballot
5. Council to place a ballot measure providing for binding interest arbitration for police and fire, limited only to wages and benefits that are tied to salary (and move as a function of salary - defined in the Memorandum of Understanding). Any arbitrator's award above the City's last, best and final offer must be approved by five votes of the City Council.

Alternatives:

- A. Award voted on by the electorate instead of Council
- B. Award voted on by majority of Council rather than five members

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a. Advantages

- i. Provides for arbitrators' input
- ii. Maintains local control
- iii. Good faith effort to address concerns of labor and management
- iv. Maintains Council budget authority with supermajority vote, as specified in City Charter section 1305
- v. Lets voters decide

b. Disadvantages

- i. Changes and lengthens current process
- ii. Cost of arbitrators
- iii. Delay in labor contract settlements
- iv. Cost of elections to confirm award
- v. Meet & Consult process needed to place measure on ballot

NEGOTIATIONS PROCESS

